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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,627	01/14/2002	Satoshi Yamamoto	113197-020	4034
24573	7590	04/22/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC PO BOX 1135 CHICAGO, IL 60690-1135			FERGUSON, MARISSA L	
			ART UNIT	PAPER NUMBER
			2854	
DATE MAILED: 04/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/047,627	Applicant(s) YAMAMOTO ET AL.	
	Examiner Marissa L Ferguson	Art Unit 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko (US Patent 5,528,452) in view of Tapani (EP 0,727,650).

Ko teaches a pressure sensor comprising a silicon structure having a conductive diaphragm (3), a silicon substrate bonded on a substrate, which comprises an electrode covered by a dielectric film (2), so that a diaphragm and an electrode are facing each other and there is a gap between a diaphragm and a dielectric film, a pressure sensor measuring a pressure applied thereto by detecting capacitance according to an area of a contact face of a diaphragm which touches a dielectric film when a pressure is applied and a silicon structure having a conductive diaphragm, provided by doping of an impurity and anisotropic etching (Admitted Disclosure of Description of Related Art, Page 1 and Page 2). However, he does not explicitly disclose a concentration of an impurity at a top face of a diaphragm being equal to or greater than $1 \times 10^{19} \text{ cm}^{-3}$ and less than $9 \times 10^{19} \text{ cm}^{-3}$ and an etch pit density on a top face of a diaphragm being equal to or less than five per μm^2 .

Tapani teaches a diaphragm portion containing a boron impurity concentration (Column 3, Lines 39-57 and Column 4) and an etch pit (see element 12, Column 4,

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Lines 53-58 and column 5, Lines 1-8) that is used to insure adequate thickness of the diaphragm portion. It would be obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention as taught by Ko to include impurities and an etch pit as taught by Tapani, since Tapani teaches adding impurities for protection of the thin films and etch pits that act as transient overpressure protection for the diaphragms.

Ko and Tapani teach a range of impurity and etch pit densities, however they do not teach the specific range or value of the etch pit and impurity concentration as claimed. However, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a specific range or value, since such a modification would result in the impurity concentration and etch pit densities providing a stronger, durable diaphragm structure.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa L Ferguson whose telephone number is (571)

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272-2163. The examiner can normally be reached on (M-T) 6:30am-4:00pm and every other (F) 7:30am-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marissa L Ferguson
Examiner
Art Unit 2854

MLF


ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800